

**MISSOURI
HOUSE OF REPRESENTATIVES**



CHRISTOPHER A. LIESE
EIGHTY-FIFTH DISTRICT

JANUARY 13, 2000

THE HONORABLE STEVE GAW, SPEAKER
MISSOURI HOUSE OF REPRESENTATIVES
ROOM 308, CAPITOL BUILDING
JEFFERSON CITY, MO 65101

DEAR MR. SPEAKER,

THE INTERIM SUBCOMMITTEE OF THE BANKS AND FINANCIAL INSTITUTIONS COMMITTEE, WHICH WAS ASSIGNED THE TASK OF STUDYING SMALL LOAN LENDING PRACTICES IN MISSOURI, HAS CONCLUDED ITS MEETINGS AND IS SUBMITTING THE FOLLOWING REPORT FOR YOUR REVIEW.

THE SUBCOMMITTEE HELD THREE SEPARATE MEETINGS, THE FIRST ON OCTOBER 21ST IN SPRINGFIELD, THE SECOND ON OCTOBER 27TH IN KANSAS CITY AND THE FINAL MEETING ON NOVEMBER 3RD IN ST. LOUIS. THE PURPOSE OF THE MEETINGS WERE TO STUDY AT THE PRACTICES OF CERTAIN LENDERS, IN PARTICULAR "PAY DAY AND TITLE LENDERS". CHAIRMAN LIESE ESTABLISHED A FORMAT FOR THE HEARINGS WHICH DIVIDED THEM INTO THREE SEGMENTS. THE FIRST SEGMENT DEALT WITH

STATE CAPITOL
JEFFERSON CITY, MO 65101
573-751-1832



ISSUES BROUGHT FORTH BY CONSUMERS, THE SECOND SEGMENT WAS RESERVED FOR STATE REGULATORS (DIVISION OF FINANCE) TO DISCUSS THEIR OVERSIGHT CAPACITIES OF THIS INDUSTRY AND THE THIRD SEGMENT WAS AN OPPORTUNITY TO HEAR FROM THE INDUSTRY AT LARGE.

THE PAYDAY AND TITLE LOAN INDUSTRY IS FAIRLY NEW IN THE STATE OF MISSOURI, PAYDAY LOANS CAME INTO EFFECT IN 1991. A PAYDAY LOAN IS A 14 DAY, UNSECURED LOAN FOR LESS THAN \$500, TYPICALLY PAYDAY LOANS ARE FOR EITHER \$50 OR \$100. THE APPROVED RATES FOR PAYDAY LOANS ARE A \$10 FEE PLUS 5% OF THE AMOUNT ADVANCED, FOR EXAMPLE, ON A \$50 LOAN THE FEES AND INTEREST WILL TOTAL \$12.50. IN 1998 THE GENERAL ASSEMBLY ENACTED THE TITLE LOAN LAW. A TITLE LOAN IS A 30 DAY LOAN FOR LESS THAN \$5000. TITLE LOANS ARE SECURED BY A UNENCUMBERED MOTOR VEHICLE TITLE, PRIMARILY CAR TITLES. THE FEES AND INTEREST ARE EARNED AT THE TIME THE LOAN IS MADE AND THERE ARE NO REFUNDS. THE AMOUNT CHARGED FOR A TITLE LOAN IS 1 1/2% AND A FEE NOT TO BE DEEMED AS INTEREST TO DEFRAY THE ORDINARY COSTS OF OPERATIONS.

TITLE LOANS HAVE SOME CONSIDERABLE DIFFERENCES IN COMPARISON TO THE TRADITIONAL CONSUMER FINANCE LOAN. TITLE LOANS ARE NOT SUBJECT TO ANY OF THE CONSUMER PROTECTION PROVISIONS FOUND IN TRADITIONAL LOANS.

REPOSSESSIONS CAN TAKE PLACE WITHOUT ANY NOTICE, THE LENDER DOES NOT HAVE TO GIVE THE BORROWER AN OPPORTUNITY TO CURE THE DEFAULT. WHEN A REPOSSESSION OCCURS OR A VEHICLE IS VOLUNTARILY TURNED OVER, THE TRANSACTION ENDS. TITLE LOANS HAVE NO COMPLIANCE WITH THE UNIFORM COMMERCIAL CODE IN REGARDS TO REFUNDING. AT THE SALE OF REPOSSESSED PROPERTY, IF THERE IS A SURPLUS, THE LENDER MAY KEEP IT, BUT IF THERE IS A DEFICIENCY THE LENDER MUST ABSORB IT.

THE COMMITTEE RECEIVED TESTIMONY FROM CONSUMERS, REGULATORS, AND INDUSTRY REPRESENTATIVES AND ENCOUNTERED CONTRASTING OPINIONS AND OBSERVATIONS OF THE SMALL LOAN INDUSTRY. THE TESTIMONY THE COMMITTEE RECEIVED FROM CONSUMERS WAS LIMITED AND VARYING. CERTAIN INDIVIDUALS EXPRESSED THAT THEY WERE IN SOME FORM FINANCIAL DIFFICULTY AND OBTAINED A TITLE OR PAYDAY LOAN. WHEN THE TERM OF THEIR LOAN HAD ENDED SOME BORROWER'S WERE UNABLE TO PAY THE LOAN IN FULL, THEREFORE CAUSING THE LOAN TO BE IN DEFAULT. AT THAT POINT THE BORROWER HAS NO OTHER RECOURSE BUT TO REFINANCE THE LOAN. THE LOAN IS ROLLED OVER, THE BORROWER IS CHARGED ANOTHER INITIATING FEE AND 1 1/2% INTEREST ON THE BALANCE OF THE LOAN. IT APPEARS THAT CERTAIN BORROWERS ARE UNAWARE OF THE FACT THAT THEY MAY BE CHARGED THE SAME INITIATING FEES EACH TIME THE LOAN IS ROLLED OVER. IN MANY CASES THE AMOUNT PAID BY THE BORROWER IS ONLY ENOUGH TO COVER THE FEES AND INTEREST, NOT REDUCING THE PRINCIPAL OF THE LOAN. CERTAIN BORROWERS GET CAUGHT UP IN THESE LOANS, REFINANCING MONTH AFTER MONTH, THEREBY PAYING AN EXORBITANT AMOUNT IN FEES AND INTEREST.

IN CONTRAST, OTHER INDIVIDUALS EXPRESSED THEY WERE VERY SATISFIED WITH THE SERVICE THEY RECEIVED. THEY STATED BEFORE THE COMMITTEE THAT THESE LOAN FACILITIES WERE QUICK, CONVENIENT, AND PROVIDED A SERVICE THAT THEY COULD NOT RECEIVE ELSEWHERE.

OTHER INDIVIDUALS EXPRESSED THAT THESE FACILITIES ARE A DETRIMENT TO THEIR COMMUNITY. CONCERNS WERE RAISED REGARDING THE PHYSICAL FACILITIES (PAINT AND OUTDOOR LIGHTING) AND THE NUMBER OF TITLE, PAYDAY LOAN AND CHECK CASHING FACILITIES IN CERTAIN GEOGRAPHIC AREAS. INDIVIDUALS CLAIM THAT CERTAIN LOAN FACILITIES ARE A NEIGHBORHOOD DISTRACTION, LOWERING PROPERTY VALUES AND PLACING AN EVER INCREASING BURDEN ON LOCAL LAW ENFORCEMENT.

THE COMMITTEE RECEIVED EXTENSIVE TESTIMONY FROM THE DIVISION OF FINANCE REGARDING THEIR OVERSIGHT RESPONSIBILITIES AND BRIEF PRESENTATION FROM THE ATTORNEY GENERAL'S OFFICE. THE ATTORNEY GENERAL'S OFFICE ADDRESSED THE COMMITTEE IN SPRINGFIELD STATING IT'S CONCERNS WITH THE TITLE LOAN INDUSTRY. THE FIRST BEING THE FEES CHARGED BY TITLE LOAN COMPANIES, THERE SEEMS TO BE A LOOPHOLE IN THE STATUTE ALLOWING THE TITLE LENDERS TO CHARGE ANY FEE THEY DEEM NECESSARY TO DEFRAY COSTS. THE SECOND CONCERN IS THAT MANY TITLE LOAN COMPANIES ARE OBTAINING CONSUMER CREDIT LOAN COMPANY LICENSES. THESE COMPANIES CONTINUE TO FUNCTION AS TITLE LOAN COMPANIES, BUT ARE NOT REQUIRED TO ABIDE BY THE INTEREST RATES IN THE TITLE LOAN STATUTES. THE ATTORNEY GENERAL'S OFFICE ALSO POINTS OUT THAT THE TITLE LOAN STATUTES DO NOT PROVIDE ANY CONSUMER PROTECTION SAFEGUARDS. FINALLY THE ATTORNEY GENERAL'S OFFICE EXPRESSED A SINCERE DESIRE TO WORK WITH THE DIVISION OF FINANCE TO EXAMINE THE PRACTICES OF THIS INDUSTRY TO HELP ENSURE THAT THE CONSUMERS ARE NOT TAKEN ADVANTAGE OF.

THE DIVISION OF FINANCE APPEARED BEFORE THE COMMITTEE AT ALL 3 HEARINGS, BRINGING FORTH THEIR KNOWLEDGE, INSIGHT, AND CONCERNS REGARDING THE INDUSTRY. THE DIVISION HAS CONCERNS WITH INTEREST, DISCLOSURE, CONSUMER PROTECTION. AT THIS POINT THE DIVISION HAS NO STATUTORY GUIDELINES REGARDING FEES CHARGED IN TITLE LOANS. TITLE LENDERS ARE ALLOWED TO CHARGE FEES DEFRAYING THE COSTS OF OPERATION, BUT DO NOT HAVE TO ITEMIZE THEIR INCURRED COSTS . THESE COSTS CAN INCLUDE INVESTIGATING, APPRAISING AND INSURING TITLES; DOCUMENTING AND RECORDING TRANSACTIONS; PERFECTING A SECURITY INTEREST; AND OTHER COSTS ASSOCIATED WITH A TRANSACTION. THE DIVISION FEELS BY REQUIRING ITEMIZATION OF THESE FEES WOULD ALLOW FOR BETTER OVERSIGHT AND POTENTIALLY LOWER COSTS FOR THE CONSUMER.

THE ISSUE OF DISCLOSURE WAS BROUGHT TO THE ATTENTION OF THE COMMITTEE.

THE DIVISION FEELS THAT THERE IS A NEED FOR GREATER DISCLOSURE OF INFORMATION TO THE CONSUMER WHEN MAKING THESE LOANS. INTEREST RATES SHOULD BE CLEARLY DISPLAYED ON THE PREMISES AND THE LOAN CONTRACTS. THE BORROWER SHOULD KNOW WHAT COULD HAPPEN TO THEIR COLLATERAL IF THERE IS A DEFAULT ON THE LOAN. THE LENDER NEEDS TO MAKE IT CLEAR THAT IF THE LOAN IS NOT PAID IN FULL DURING ITS TERM, WHAT CHARGES AND INTEREST WILL BE ASSESSED WHEN REFINANCING THE LOAN FOR ANOTHER TERM.

ANOTHER FACTOR IS CONSUMER PROTECTION. UNDER TRADITIONAL LOANS THERE ARE CERTAIN CONSUMER PROTECTION PROVISIONS THAT ARE GRANTED TO THE BORROWER. THESE PROVISIONS SHOULD BE PLACED IN THE TITLE LOAN STATUTES, COMPLYING WITH THE UNIFORM COMMERCIAL CODE. BY PLACING THESE PROTECTIONS UNDER THE LAW WOULD HELP PROTECT THE CONSUMER AND BRING MORE CREDIBILITY TO THE INDUSTRY.

THE COMMITTEE HEARD CONSIDERABLE TESTIMONY FROM THE INDUSTRY AT LARGE. THE FIRST ISSUE THEY BROUGHT TO LIGHT IS THAT THEY ARE PROVIDING A SERVICE THAT BANKS, SAVINGS AND LOANS, AND CREDIT UNIONS WILL NOT PROVIDE. THE MAIN STREAM FINANCIAL INSTITUTIONS FIND THAT MAKING THESE TYPES OF LOANS ARE NOT PROFITABLE, THEREFORE NOT WILLING TO SERVE THIS CLIENTELE. ANOTHER ISSUE IN THIS REGARD IS THAT MANY OF THESE CUSTOMERS HAVE A BAD CREDIT HISTORY, PRIMARILY DUE TO CREDIT CARD DEBT, AND ARE UNABLE TO GO INTO A BANK AND GET A LOAN.

THE TITLE AND PAYDAY LOAN INDUSTRY IS PROVIDING ITS CUSTOMERS WITH A NEEDED SERVICE FOR OFF BUDGET ITEMS. MANY OF THESE LOANS ARE OBTAINED BY PEOPLE WHICH NEED MONEY MEDICAL BILLS AND PRESCRIPTIONS, AUTO REPAIR, SCHOOL CLOTHING FOR THEIR CHILDREN, AND SO FORTH. THE INDUSTRY CLAIMS THAT THEIR CUSTOMERS HAVE NO WHERE ELSE TO TURN FOR FINANCIAL SUPPORT

WHEN EMERGENCIES OCCUR.

THE ISSUE OF OUTRAGEOUS ANNUAL PERCENTAGE RATES HAS BEEN RAISED. DUE TO THE LENGTH OF THESE LOANS, 14 DAYS ON PAYDAY AND 30 DAYS OF TITLE LOANS, AND THE NUMBER OF DEFAULTS, INTEREST MEASURED BY ANNUAL PERCENTAGE RATES CAN NOT BE AN EQUITABLE MEANS OF FORMULATING RATES. VERY SELDOM WOULD ANY OF THESE LOANS EVER BE REFINANCED OVER A 12 MONTH PERIOD.

THIS INDUSTRY IS CONSIDERED TO BE A HIGH RISK ONE, THE DEFAULT RATE AVERAGING CLOSE TO 20%. THE INDUSTRY'S MAIN GOAL IS FOR ALL CUSTOMERS TO PAY THEIR LOANS WHEN THEY COME TO TERM. IT APPEARS THE INTENT OF THE TITLE LENDERS IS NOT TO RUN OUT AND REPOSSESS A VEHICLE AS SOON AS SOON AS THERE IS A DEFAULT OR A PAYDAY LENDER TO HAVE SOMEONE PROSECUTED FOR PASSING A CHECK FOR INSUFFICIENT FUNDS. THE COSTS INCURRED WHEN PURSUING THESE OPTIONS CAN SOMETIMES EXCEED THE AMOUNT OF THE LOAN.

AS SEEN BY THE COMMITTEE, THE TITLE AND PAYDAY LOAN INDUSTRY IS HIGHLY SPECIALIZED, MARKET DRIVEN, CONSTANTLY EXPANDING, PROVIDING A NEEDED SERVICE THAT CAN'T BE FOUND ELSEWHERE. THERE APPEARS TO BE A NEED FOR THIS INDUSTRY IN MISSOURI AND WITH SOME STATUTORIAL MODIFICATIONS (CONSUMER PROTECTIONS) THE COMMITTEE FEELS THAT THE TITLE AND PAYDAY LOAN INDUSTRY CAN BE MADE MORE SUITABLE TO THE CITIZENS OF THIS STATE.

THE COMMITTEE WOULD LIKE TO MAKE THE FOLLOWING RECOMMENDATIONS:

REQUIRE LENDERS LICENSED UNDER CHAPTER 367 TO MAINTAIN A SURETY BOND OR AN IRREVOCABLE LETTER OF CREDIT WHICH IS SATISFACTORY WITH THE COMMISSIONER OF FINANCE.

REQUIRE CONSUMER PROTECTION PROVISIONS TO BE PLACED UNDER THE TITLE LOAN STATUTE. THESE CONSUMER PROTECTIONS WOULD INCLUDE;

THE LENDER'S RIGHT TO CURE ON A DEFAULT;

DISCLOSURE AND THE CONSPICUOUS POSTING OF INTEREST RATES; AND

REFUNDING ON PREPAYMENTS AND SURPLUSES ON REPOSSESSION SALES BE REFUNDED TO THE BORROWER.

REQUIRE ALL TITLE LENDERS TO ISSUE TO POTENTIAL CUSTOMERS A "NOTICE TO BORROWER" FORM. THIS FORM, READ AND SIGNED BY THE BORROWER BEFORE THE LOAN IS INITIATED, SHALL EXPLAIN IN LAYMAN'S TERMS ALL THE CONDITIONS OF THE LOAN.

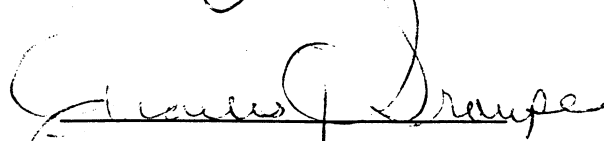
PROHIBIT THE OPERATION OF TITLE LOAN COMPANIES AND USED CAR DEALERSHIPS ON THE SAME PREMISES.

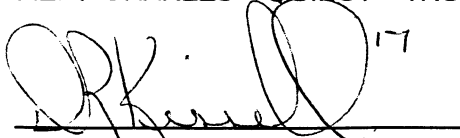
INCREASE THE REGULATORY AUTHORITY OF THE COMMISSIONER OF FINANCE OVER PAYDAY AND TITLE LENDERS BY GIVING HIM THE POWER TO LEVY FINES, SUSPEND AND REVOKE LICENSES OF VIOLATORS.

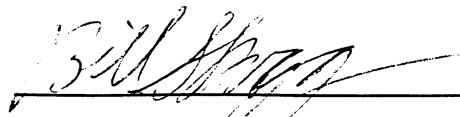
REQUIRE PAYDAY LENDERS NOT TO KNOWINGLY PERMIT BORROWERS TO BE INDEBTED ON MORE THAN TWO LOANS AT ANY ONE TIME.

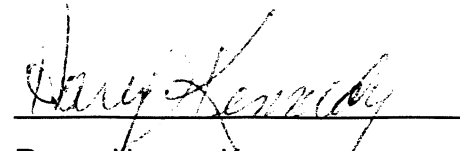
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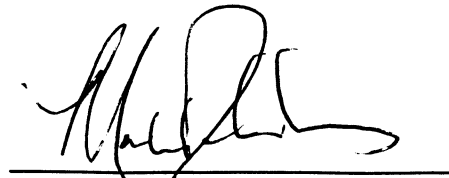

REP. CHRIS LIESE; CHAIRMAN

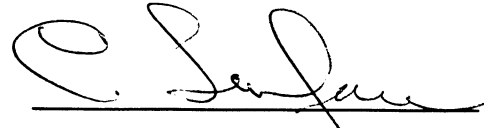

REP. CHARLES "QUINCY" TROUPE


REP. DON KISSELL

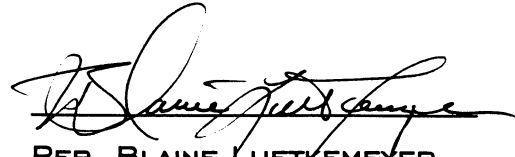

REP. BILL SKAGGS


REP. HARRY KENNEDY


REP. MARK RICHARDSON


REP. CHUCK SURFACE


REP. BETH LONG


REP. BLAINE LUETKEMEYER